

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

PACIFIC BIOSCIENCE
LABORATORIES, INC., a Washington
corporation,

Plaintiff,

v.

RN VENTURES LTD., a United Kingdom
corporation,

Defendant.

No.

COMPLAINT FOR PATENT
INFRINGEMENT

JURY DEMAND

Plaintiff Pacific Bioscience Laboratories, Inc. (“PBL”), for its Complaint for Patent Infringement against Defendant RN Ventures Ltd., (“RN Ventures”), hereby alleges, by and through its attorney, on personal knowledge as to its own actions and on information and belief as to the actions of others, as follows:

I. INTRODUCTION

1. Plaintiff PBL dramatically changed the market for skin cleansing products when it introduced its innovative Clarisonic Sonic Skin Cleansing System (the “Clarisonic System”) in 2004. The Clarisonic System employs motion and forces at sonic frequencies to cleanse, soften, and smooth skin.

10. On information and belief, RN Ventures Ltd. is a corporation organized and existing under the laws of the United Kingdom with its principal place of business at Francis House, 10 Francis Street, London SW1P 1DE, United Kingdom.

11. On information and belief, RN Ventures manufactures, markets, and sells electric skin care devices under the name Magnitone Pulsar.

III. JURISDICTION AND VENUE

12. This case arises under the patent laws of the United States, 35 U.S.C. § 101 et seq.

13. The Court has subject matter jurisdiction over this case pursuant to 28 U.S.C. §§ 1331, 1332, and 1338.

14. PBL has its principal place of business in this District, and makes its Clarisonic devices available for sale in this District.

15. This Court has personal jurisdiction over RN Ventures because, on information and belief, RN Ventures has committed and continues to commit the acts violating PBL's intellectual property described herein within the State of Washington, including in this District, and places infringing products into the stream of commerce, with the knowledge or understanding that such products are sold in the State of Washington, including in this District.

16. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), (c), and 28 U.S.C. § 1400(b) because, *inter alia*, PBL's principal place of business is within this District and PBL suffered harm in this District, because a substantial part of the events giving rise to the claims against RN Ventures occurred and are occurring in this District, and because RN Ventures transacts business within this District and offers for sale in this District products that infringe PBL's intellectual property.

IV. BACKGROUND

17. Since the early 2000s, PBL has designed, developed, manufactured, marketed, and sold in the United States (and worldwide) its innovative Clarisonic System, which is a line of skin care products including a number of Sonic Cleansing Brushes and accessories, the

Clarisonic Opal® Sonic Infusion System, and targeted treatment solutions. Examples of Clarisonic products are pictured below:



18. The Clarisonic System was developed by PBL over many years at great expense and effort and represents a breakthrough in devices and methods for treatment of early stage acne and for effective cleansing of skin. Those devices and methods employ motion and forces at sonic frequencies to cleanse, soften, and smooth skin. They alleviate clogged pores and remove debris from skin more gently and effectively than alternative devices or methods, such as manual cleansing.

19. The innovations embodied in the Clarisonic System are protected by numerous United States and foreign intellectual property rights, including rights deriving from patents.

20. Prior to the introduction of the Clarisonic System, there were no sonic facial cleansing devices on the market. Indeed, before development of the Clarisonic System, no market existed for sonic skin care devices. PBL expended considerable resources to create the sonic skin care market and to educate the public regarding facial cleansing, as well as to market its sonic facial cleansing devices.

21. Since its introduction, the Clarisonic System has become widely acclaimed by professionals and consumers, and has garnered many media awards from sources such as authoritative magazines in the beauty industry, Oprah's Favorite Things in 2007 on the Oprah

1 Winfrey Show, Best of Sephora in 2007 and 2008, and QVC Customer Choice in 2008, 2009,
2
3 and 2010.

4 22. The success of the Clarisonic System has spurred a large number of imitations,
5
6 such as RN Ventures' Magnitone Pulsar, pictured below.
7



8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 **V. PBL'S PATENTS**

28 **U.S. Patent No. 7,320,691**

29
30 23. U.S. Patent No. 7,320,691 ("the '691 patent") issued on January 22, 2008, and is
31
32 entitled "Apparatus and Method for Acoustic/Mechanical Treatment of Early Stage Acne." The
33
34 inventors are Kenneth A. Pilcher, David Giuliani, and Stephen M. Meginniss.
35

36 24. A copy of the '691 patent is attached as Exhibit 1.
37

38 25. PBL is the exclusive licensee having all substantial rights in and to the '691
39
40 patent, with the rights to bring enforcement actions for past, present and future infringement and
41
42 to collect damages for past infringement.
43

44 26. The '691 patent has been reexamined pursuant to Reexamination Request Nos.
45
46 90/009,797 and 90/011,343. The patentability of all of the originally issued claims 1-52 of the
47
48 '691 patent was confirmed pursuant to these reexamination requests, and claims 53-64 were
49
50 added. A reexamination certificate issued on September 20, 2011. *See* Exhibit 1.
51

1 27. The '691 patent is valid, enforceable, and currently in full force and effect.

2
3 **U.S. Patent No. D523,809**

4 28. U.S. Patent No. D523,809 ("the D'809 patent") issued on June 27, 2006, and is
5
6 entitled "Charger for an Electric Skin Brush." The inventors are Dane M. Roth, Robert E.
7
8 Akridge, and Kenneth A. Pilcher.
9

10 29. A copy of the D'809 patent is attached as Exhibit 2.

11 30. PBL is the exclusive licensee having all substantial rights in and to the D'809
12
13 patent, with the rights to bring enforcement actions for past, present and future infringement and
14
15 to collect damages for past infringement.
16
17

18 31. The D'809 patent is valid, enforceable, and currently in full force and effect.

19
20 **CLAIM I – INFRINGEMENT OF THE '691 PATENT**

21 32. PBL hereby incorporates and realleges Paragraphs 1 - 31 as if fully set forth
22
23 herein.
24
25

26 33. RN Ventures has been and/or is directly infringing one or more claims of the '691
27
28 patent pursuant to 35 U.S.C. § 271(a), literally or under the doctrine of equivalents, by making,
29
30 using, offering to sell, and/or selling in the United States and/or importing into the United States,
31
32 products, devices, or systems that are covered by the '691 patent, including the Magnitone
33
34 Pulsar.
35

36 34. PBL has consistently and continuously marked its products with the '691 patent
37
38 number pursuant to 35 U.S.C. § 287 and has provided constructive notice of the '691 patent.
39
40 PBL seeks monetary and all other damages permitted by statute.
41
42

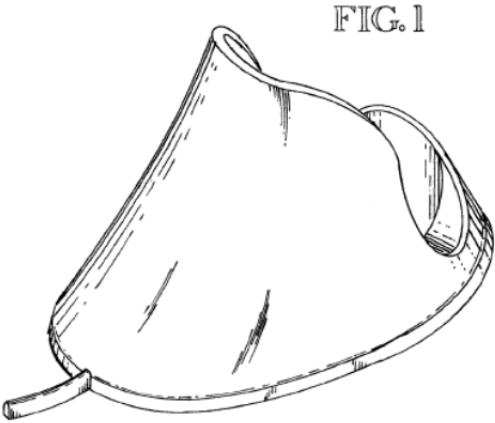

43 35. RN Ventures' infringement of the '691 patent has been and will continue to be
44
45 willful and deliberate, by making, using, offering to sell, and/or selling in the United States
46
47 and/or importing into the United States, infringing devices despite that such actions constitute
48
49 infringement and despite being at least on constructive notice that its actions constitute
50
51 infringement.

36. RN Ventures' infringement of the '691 patent has caused and will continue to cause PBL substantial and irreparable injury, for which PBL is entitled to all of the relief provided by 35 U.S.C. §§ 281, 283, 284, and 285, including but not limited to injunctive relief, compensatory damages not less than the amount of a reasonable royalty, interest, costs, enhanced damages, and reasonable attorney's fees, as the court deems just and appropriate.

CLAIM II – INFRINGEMENT OF THE D'809 PATENT

37. PBL hereby incorporates and realleges Paragraphs 1 - 36 as if fully set forth herein.

38. RN Ventures has been and/or is directly infringing the D'809 patent pursuant to 35 U.S.C. § 271(a), by making, using, offering to sell, and/or selling in the United States and/or importing into the United States, products, devices, or systems that embody the design covered by the D'809 patent, including the Magnitone Pulsar.

D'809 Patent	Magnitone Pulsar Charging Station
	

39. PBL has consistently and continuously marked its products with the D'809 patent number pursuant to 35 U.S.C. § 287 and has provided constructive notice of the D'809 patent. PBL seeks monetary and all other damages permitted by statute.

1 40. RN Ventures' infringement of the D'809 patent has been and will continue to be
 2 willful and deliberate, by making, using, offering to sell, and/or selling in the United States
 3 and/or importing into the United States, infringing devices despite that such actions constitute
 4 infringement and despite being at least on constructive notice that its actions constitute
 5 infringement.
 6
 7
 8
 9

10 41. RN Ventures' infringement of the D'809 patent has caused and will continue to
 11 cause PBL substantial and irreparable injury, for which PBL is entitled to all of the relief
 12 provided by 35 U.S.C. §§ 281, 283, 284, 285, and 289, including but not limited to injunctive
 13 relief, compensatory damages not less than the amount of a reasonable royalty, interest, costs,
 14 enhanced damages, RN Ventures' profits, and reasonable attorney's fees, as the court deems just
 15 and appropriate.
 16
 17
 18
 19
 20
 21

22 **VI. DEMAND FOR JURY TRIAL**

23 Pursuant to Rule 38 of the Federal Rules of Civil Procedure, PBL respectfully requests a
 24 trial by jury of all issues properly triable by jury.
 25
 26
 27
 28

29 **VII. PRAYER FOR RELIEF**

30 WHEREFORE, PBL prays for relief, as follows:
 31

- 32 A. A judgment that RN Ventures has infringed one or more claims of the '691
 33 patent;
 34
 35 B. A judgment that RN Ventures has infringed the D'809 patent;
 36
 37 C. An order and judgment preliminarily and permanently enjoining RN Ventures and
 38 its officers, directors, agents, servants, employees, affiliates, attorneys, and all others acting in
 39 privity or in concert with them, and their investors, partners, parents, subsidiaries, divisions,
 40 successors, and assigns, from further acts of infringement of PBL's asserted patents;
 41
 42 D. A judgment awarding PBL all damages adequate to compensate for RN Ventures'
 43 infringement of PBL's asserted patents and/or RN Ventures' total profits pursuant to 35 U.S.C.
 44
 45
 46
 47
 48
 49
 50
 51

1 § 289, and in no event less than a reasonable royalty for RN Ventures' acts of infringement,
2 including all pre-judgment and post-judgment interest at the maximum rate permitted by law;
3

4 E. A judgment declaring that RN Ventures' infringement of the asserted patents has
5 been willful and deliberate;
6

7 F. A judgment awarding PBL all damages, including treble damages, as a result of
8 RN Ventures' willful and deliberate infringement of the asserted patents, pursuant to 35 U.S.C.
9 § 284, together with pre-judgment and post-judgment interest;
10

11 G. A judgment declaring that this case is exceptional and awarding PBL its expenses,
12 costs, and attorney's fees in accordance with 35 U.S.C. §§ 284 and 285 and Rule 54(d) of the
13 Federal Rules of Civil Procedure; and
14

15 H. Such other and further relief as the Court deems just and proper.
16
17
18
19
20

21 DATED: May 1, 2015
22
23

Respectfully submitted,

By: s/ Ramsey M. Al-Salam

Ramsey M. Al-Salam WSBA #18822

Perkins Coie LLP

1201 Third Avenue, Suite 4900

Seattle, WA 98101-3099

Tel: (206) 359-8000

Fax: (206) 359-9000

Email: RAlsalam@perkinscoie.com

Attorneys for Plaintiff

Pacific Bioscience Laboratories, Inc.

1
2 COUNSEL:
3

4 Robert M. Masters (*pro hac to be submitted*)
5 Timothy P. Cremen (*pro hac to be submitted*)
6 Lisa Y. Leung (WSBA No. 43015)
7 PAUL HASTINGS LLP
8 875 15th St. NW
9 Washington, D.C. 20005
10 Tel: (202) 551-1700
11 Fax: (202) 551-1705
12 robertmasters@paulhastings.com
13 timothy cremen@paulhastings.com
14 lisaleung@paulhastings.com
15

16 Robert L. Sherman (*pro hac to be submitted*)
17 Natalie G. Furman (*pro hac to be submitted*)
18 PAUL HASTINGS LLP
19 75 East 55th Street
20 New York, NY 10022
21 Tel: (212) 318-6000
22 Fax: (212) 230-7841
23 robertsberman@paulhastings.com
24 nataliefurman@paulhastngs.com
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51